

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 985 of 1987

Date of decision: 15-9-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

G.S.R.T.C., AHMEDABAD.

Versus

SITABEN WD/O NATVERLAL SHIVRAM

Appearance:

Ms. Maya Desai for MR MD PANDYA for Appellant
None present for respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/09/98

ORAL JUDGEMENT

Heard the learned counsel for the appellant.

This is an appeal by the Gujarat State Road Transport corporation against the award of the Motor Accident Claims Tribunal (Main) at Surendranagar, in M.A.C.Petition No.331 of 1983 decided on 1-10-1986. Under this award the Motor Accident Claims Tribunal awarded Rs.33,600/- with costs and interest at the rate of 6% per annum from the date of application till realisation of the compensation to the claimants respondents No.1,2 and 3 for the death of Natvarlal Shivlal in a motor vehiculare accident caused by the S.T.Bus on 19th August, 1983.

2. The only contention raised by the learned counsel for the appellant is that the Tribunal has erred in holding the driver of the S.T. bus wholly negligent in the matter. I do not find any substance in this submission. The Tribunal, after appreciating the evidence produced by the parties has recorded the finding of fact that the accident has been caused because of rash and negligent driving of the driver of the S.T. bus. This finding is based on appreciation of evidence, and the appellate court has very limited power of judicial review. This court cannot interfere with this finding unless it is illustrated that the same is based on surmise and conjectures or that the evidence has been misread or even if the evidence produced is taken to be correct on the face value, no such finding could have been recorded by a person of reasonable approach.

3. From the document Exh.28 - panchnama of the scene of accident, I find that there were break marks of 2 feet and further the offending bus was lying facing towards north. From this panchnama the Tribunal has rightly drawn inference that the bus was taken to the platform and it might not have been taken in reverse, as deposed by the driver of the S.T. bus. There is further evidence on record that the deceased was knocked down by the front left hand side wheel of the bus and that too when the bus was taken from near parcel room to the platform. The negligence of the driver is clearly borne out from the fact that he could not see a person on the left side of the bus. The driver has been examined at Exh.44 and from his statement also I do not find anything as borne out in favour of the appellant. The finding which has been recorded by the Tribunal on the issue of negligence of the driver of the offending vehicle is perfectly justified, and no interference is called for by this court in this appeal.

4. In the result this appeal fails and the same is

dismissed.

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